IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
AT PORVORIM, GOA
PIL WRIT PETITION NO. 53 OF 2024

NOTARY G. S. KAMAT North Goa, Goa Regd. No. 13331 Exp. By 16/09/2027 GOVERNMENT OF INDIA

**IN THE MATTER OF:**

THE GOA FOUNDATION ...PETITIONER

VERSUS

STATE OF GOA & ORS. ...RESPONDENTS

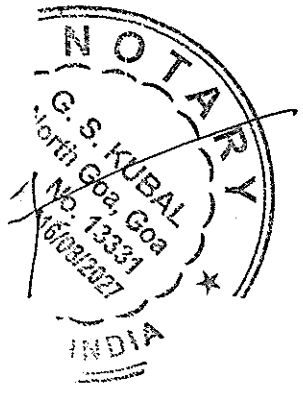
**AFFIDAVIT-IN-REPLY ON BEHALF OF THE TOWN AND COUNTRY PLANNING DEPARTMENT TO THE ADDITIONAL AFFIDAVIT DATED 1ST FEBRUARY 2025 FILED ON BEHALF OF THE PETITIONER**

I, Rajesh Naik, aged 61 years, Indian Inhabitant, being the Chief Town Planner (Planning), having my office at 2nd Floor, Dempo Towers, Patto, Panjim, Goa- 403001, do hereby, solemnly affirm and state as under:

1. I say that I am the authorized signatory of the Town and Country Planning Department, Respondent No. 3 in the captioned Petition ("**this Respondent/ TCP Department**"). I say that I am aware of the facts of the matter on the basis of the records maintained by this Respondent and am therefore able to depose to the same.

2. I say that I have read the Additional Affidavit dated 1st February 2025 ("**Additional Affidavit**") filed by the Petitioner and am filing the present response for the purpose of dealing with/ refuting the allegations levelled against this Respondent in the Additional Affidavit and for opposing grant of any ad-interim/interim reliefs in favour of the Petitioner. I repeat and reiterate the contents of Limited Affidavit-in-Reply dated 10th October 2024 ("**Limited Reply**") filed on behalf of this Respondent in the captioned proceedings and state that the same is not being repeated herein for the sake of brevity. I deny all the contentions, averments and allegations made by the Petitioner in the captioned Petition and the additional affidavit which are inconsistent with and/or contrary to all that is set out herein. Nothing in the captioned Petition and Additional Affidavit thereto is admitted or should be deemed to be admitted by the said Respondent for want of *specific traverse* or otherwise. The said Respondent reserves its right to file additional affidavit(s) in reply at a later stage, if necessary and if so advised.

3. By way of the Additional Affidavit, the Petitioner has brought on record a set of documents which comprises of their analysis of certain survey numbers/plots zoning of which has been provisionally recommended for change under Section 39A ("**Impugned Section**") of the TCP Act read with Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 [*as amended by Goa Town and Country Planning (Change of zone of land in the Regional Plan or the Outline Development Plan) (First Amendment) Rules, 2024 by way of notification dated 24th May 2024 and notified on 6th June 2024*] ("**Impugned Rules**"). Prior to dealing with the allegations/averments made by the Petitioner in the Additional Affidavit with regards to each Survey Number, this Respondent submits that the challenges raised by way of the Additional Affidavit deserve to be dismissed on the following ground:




*A.* ***THE PETITIONER HAS FAILED TO MAKE OUT A CASE FOR GRANT OF INTERIM RELIEFS(S)***

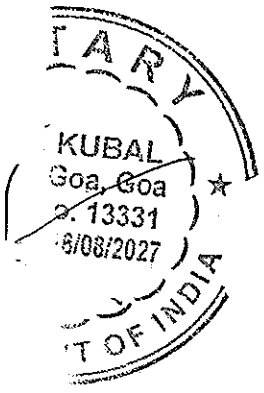
4. I reiterate that if the interim relief as sought in the Additional Affidavit is granted, the same would amount to granting the

final relief at the interim stage, which is not permissible. I reiterate that it is trite law that a statute is presumed to be constitutional unless the same is set aside after final hearing and therefore merely. It is an equally established position of law that when considering an application for staying the operation of a piece of legislation, the Courts must bear in mind that unless the provision is manifestly unjust or glaringly unconstitutional, the courts must show judicial restraint in staying the applicability of the same. Merely because a statute comes up for examination and some arguable point is raised, which persuades the court to consider the controversy, the legislative will should not normally be put under suspension pending such consideration.

5. It is submitted that in matters involving challenge to constitutionality of any legislation enacted by the legislature and the rules framed thereunder, the courts should be extremely loath to pass an interim order. At the time of final adjudication, the court can strike down the statute if it is found to be ultra vires the Constitution. Likewise, the rules can be quashed if the same are found to be unconstitutional or ultra vires the provisions of the Act. However, the

operation of the statutory provisions cannot be stultified by granting an interim order except when the court is fully convinced that the particular enactment or the rules are *ex-facie* unconstitutional and the factors like balance of convenience, irreparable injury and public interest are in favour of passing an interim order.

6. Keeping the aforesaid position of law in mind, it is submitted that merely because the Petitioner has challenged the constitutional validity of the Impugned Section and the Impugned Rules, the operation of the said provisions (including the powers contained therein) ought not to be stayed pending the hearing and final disposal of the captioned Petition.




7. I reiterate that the Impugned Section only permits applications for change of zone after following the detailed procedure prescribed in the Impugned Rules and which includes inherent safeguards as set out below:

a. **Scrutiny of Applications:** The proposal/application received for change of zone from any person is first scrutinized by this Respondent *i.e.*, the Town and

Country Planning Department ("**TCP Department**") by following the guidelines set out in Rule 5 of the Impugned Rules and a scrutiny report is prepared by this Respondent. [*Rule 4(1) of the Impugned Rules*]

b. **Consultation with Authorities:** During the scrutiny process, this Respondent is required to consult authorities such as the Goa Coastal Zone Management Authority, Forest Department, Agricultural Department etc. and obtain their comments. [*Rule 5 of the Impugned Rules*]

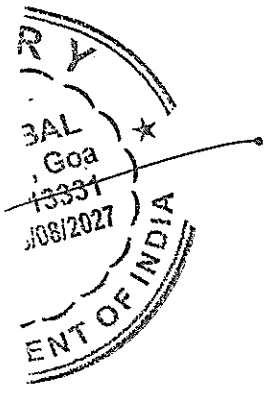
c. **Initial approval of the TCP Board**: The scrutiny report prepared by this Respondent is thereafter placed before the Town and Country Planning Board ("**TCP Board**") for its recommendation/approval/decision. [*Rule 4(1) of the Impugned Rules*]

d. **Public Notice and consultation with public**: Only upon the approval of the TCP Board a notice regarding the proposed change of zone of land is issued by way of a notification published in the Official Gazette and also in 2 local newspapers inviting suggestions from the public within a period of 30 days from the date of publication of

the notification in this regard. [*Rule 4(2) of the Impugned Rules*]

e. **Scrutiny of the suggestions received from public and final approval of the TCP Board**: Upon the expiry of 30 days, the proposal for changed of zone of land, along with suggestions, if any, received from the public is again placed before the TCP Board, for its recommendation/approval/decision. [*Rule 4(3) of the Impugned Rules*]

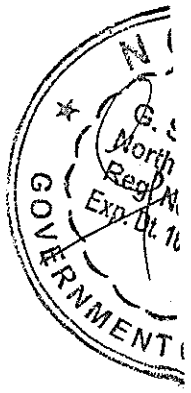
f. **Approval of the Government prior to modification**: Thereafter, the Chief Town Planner (Planning) ("**CTP**") places the TCP Board's recommendation/approval/decision before the Government for its final decision. It is only upon approval from the Government will the CTP alter / modify the Regional Plan or the Development Plan for carrying out the change of zone of any land therein. [*Rules 4(5) of the Impugned Rules*]



g. **Change of zone is notified to the public**: Each alteration / modification to the Regional Plan or Development Plan

is published by the CTP by notification in the official gazette and accordingly, the public is notified of the same. [*Rule 6 of the Impugned Rules*]

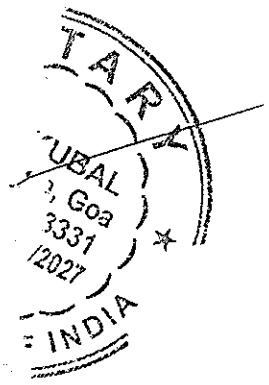
h. **Restrictions on change of zone**: The Impugned Section and Rule 5 of the Impugned Rules contains inherent safeguards such as imposing certain restrictions on proposed modifications/ alterations to the Regional Plan / Development Plan. Such restrictions include prohibition of consideration of eco-sensitive lands (as prescribed) for change of zone, including any past commitment / approval / sanad granted in respect thereof. Another safeguard contained in the Impugned Section is that alterations or modifications carried out thereunder cannot alter the character of the existing Regional Plan and/or the Development Plan.




8. In addition to the aforesaid, the ultimate power to make changes to the zone of land lies with the Government. I say that the fact that the power has been vested by the State Legislature not in any officer, but in the State Government which is by itself a guarantee that the power would be exercised in conformity with the provisions of the TCP Act.

Therefore, I say that the Impugned Section and the Impugned Rules are neither arbitrary nor unconstitutional. *Per contra*, I say that that the procedure prescribed under the Impugned Section is in consonance with the provisions of the TCP Act and ensures that there are sufficient checks and balances in the manner in which the power is exercised.

9. I further say that the interim relief sought by the Petitioner in the Additional Affidavit by way of a restraint on the Respondent authorities to issue final notifications for change of zone under the Impugned Section pending the disposal of the captioned Petition would effectively amount to a stay on the operation of the Impugned Section itself. As demonstrated above, such a measure should not be taken at this interim stage in light.

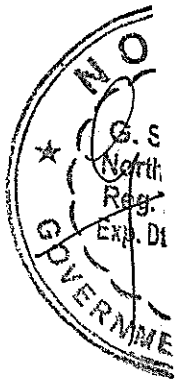



10. In view of the aforesaid, I say that the Petitioner has failed to make out any case for grant of any interim reliefs in its favour let alone the high burden required in such cases.

***B.*** ***<u>ALLEGATIONS OF THE PETITIONER WITH RESPECT TO SURVEY NUMBERS MENTIONED IN ANNEXURE 'A' OF THE ADDITIONAL AFFIDAVIT ARE MISCONCEIVED</u>***

11. I say that by way of the Additional Affidavit, the Petitioner has placed on record a set of documents which comprises of their analysis of certain survey numbers/plots zoning of which has been provisionally recommended for change of zone under the Impugned Section. I say that the allegation of the Petitioner that these survey numbers are zoned as eco-sensitive zones, yet these have been provisionally recommended for change to Settlement, is misconceived.

12. *Firstly*, I say that admittedly under the Impugned Section and the Impugned Rules, change of zone of eco-sensitive lands (*as prescribed*) is expressly barred and the zoning of none of the survey numbers highlighted by the Petitioner in the Additional Affidavit falls within the definition of an eco-sensitive land as defined under Rule 2(1)(c) of the Impugned Rules. The Petitioner is deliberately applying an incorrect test and relying on an incorrect definition, which, is not applicable for the purposes of the Impugned Section.

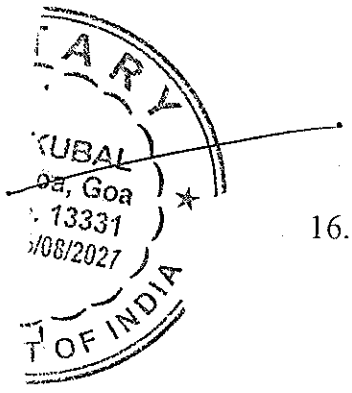



13. *Secondly*, it is clarified that no final decision has been taken with regards to any of the proposals made under the Impugned Section so far, and the recommendations of the

TCP Board are yet to be placed before the Government for the final approval. Therefore, the allegations of the Petitioner that the zones of the cases highlighted in Annexure A to the Additional Affidavit have been "changed" or "converted" is incorrect and pre-mature and is as such liable to be disregarded.

14. *Thirdly*, and in any event, I say that the changes to zones which have been provisionally recommended by the TCP Board under the Impugned Section shall not alter the overall character of the existing Regional Plan.

15. I shall now deal with the allegations contained in Annexure A of the Additional Affidavit on a plot-wise basis. I crave leave to refer to and rely upon the relevant documents in relation to the below survey numbers, when produced.



i. <u>Sy. No. 68/1-C – Ella, Se Old Goa, Tiswadi Taluka</u>

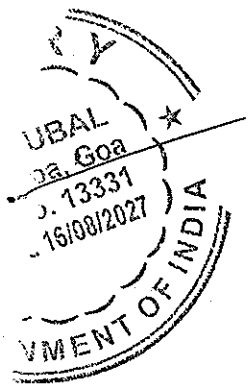
16. I say that the Petitioner has alleged that the said property bearing Sy. No. 68/1-C admeasuring 1,64,015 $m^2$ is earmarked as Orchard zone with dense green cover and is part of a larger green area and has been changed to Settlement zone under the Impugned Section. I deny any insinuation that

the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

17. In this regard, I say that M/s. Enigma Properties Private Limited applied for change of zone of the said property under the Impugned Section *vide* application dated 22nd July 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that - (a) the entire property belongs to a single owner and there are no tenants in the property; (b) as per RPG-2021, the entire property bearing Sy. No. 68/1-C is zoned as Orchard; (c) the slope of the property was analyzed during the scrutiny by this Respondent and was found to be below 25% and is therefore within permissible gradient as per the Impugned Rules; (d) the said property is located in an area having settlement character with houses along the northern side; (e) the property is neither a low-lying land nor has water bodies; and (f) there is also no record/material to suggest that the said property is in a flood prone area.

18. The property is proposed to be made accessible through Sy. No. 65/3 which also belongs to the same owner and connects to an existing tar road having right of way as 10 mts. as per RP-2021.

19. I say that the application in relation to the said property was thereafter considered in the 204th Meeting of the TCP Board held on 29th July 2024. The TCP Board after going through the details of the application noted that - (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; (b) the said property was not identified as private forest; (c) the Google image submitted along with the application clearly suggested that there are residential, commercial, industrial developments in close vicinity; and (d) RP-21 also showed developable areas all around the applicant's property.




20. After deliberations, the TCP Board directed the CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 9th December 2024 (*published in the Official Gazette Series III*

*No. 37 on 12th December 2024*) and in local daily newspapers, inviting suggestions from the public.

21. Pursuant to the aforesaid public notification, the TCP Department received suggestions from various stakeholders, which were placed for consideration of the TCP Board as per Rule 4(3) for its recommendation/ approval. The TCP Board after going through the proposal and the suggestions received, noted that the application and the request made therein meets the guidelines as specified under Rules 5 of the Impugned Rules. The TCP Board also noted that the suggestions received do not contain any specific data or specific details to substantiate their claim so as to consider them further. Accordingly, the TCP Board decided to recommend the proposal for change of zone from Orchard to Settlement and directed the Chief Town Planner (Planning) to take further action as per Rule 4(4) of Impugned Rules.

22. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

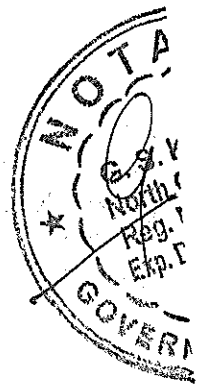
ii. **Sy. No. 101/1 (part) – Assagao, Bardez Taluka**

23. With respect to this property, the Petitioner has alleged that the zone of the said property admeasuring 16000 $m^2$ is part of a larger property under Natural Cover contiguous with a larger belt of Private Forest, Orchard and NDS and has been converted to Settlement Zone under the Impugned Section. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

24. In this regard, I say that Mr. Sudesh Madhu Parsekar (POA) applied for change of zone under Section 39A of the TCP Act *vide* application dated 29th April 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 2,00,000 $m^2$; (b) the property was purchased by Late Madhu Sada Parsekar *vide* deed of sale dated 9th November 1950; (c) the property is accessible by traditional way and also with tar road proposed as 15 meter wide towards eastern side of the property; (d) as per RP-2021, the entire property is zoned as Natural Cover with very small area as

No Development Slope; (e) the applicant applied for change of zone of an area admeasuring16000 $m^2$ out of the total area of 2,00,000 $m^2$; (f) the area applied for change of zone is earmarked as natural cover zone which is not an eco-sensitive land as prescribed under the Impugned Rules; (g) the slope of the property is within the permissible gradient *i.e.,* below 25%; (h) the property is located in the area having settlement character with houses along the northern side of the property; and (i) the property is not low-lying, does not have water-bodies and is not in a flood prone area.

25. I say that the said application was placed in 201st meeting of the TCP Board held on 11th June 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; (b) the Google image submitted along with the application clearly showed that the said property is in vicinity of the residential areas; (c) the RP-2021 map also shows developable areas in close vicinity of the applicant's property.



26. After deliberations, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the

Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 22nd October 2024 (*published in the Official Gazette Series III No. 37 on 24th October 2024*) and in local daily newspapers, inviting suggestions from the public.

27. The TCP Board has considered all the suggestions received and has arrived at the decision on the basis of merit of each case. The TCP Board duly considered the suggestions and was of the view that the same were very general in nature and that too without any scientific study and/or documents in support thereof. After taking into consideration various factors, the TCP Board decided to recommend the proposal for Change of Zone and directed Chief town Planner (Planning) to take further action as per Rule 4(4) of the Impugned Rules.

28. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

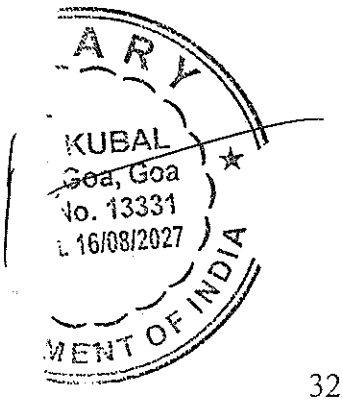
**iii. <u>Sy. No. 124/0 – Mandrem, Pernem Taluka</u>**

29. With respect to this property, the Petitioner has alleged that the zone of the said property admeasuring 50,401 $m^2$ earmarked as Orchard and part Non-Development Slope (NDS) in a large Orchard area within a contiguous NDS, hilly area and has been changed to Settlement Zone. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

30. In this regard, I say that Exclusior Luxury Project Two LLP & Slavio Luxury Project Four LLP applied for change of zone of the said property under the Impugned Section *vide* application dated 15th May 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 69,043 $m^2$; (b) the property was purchased by the applicants *vide* deed of sale dated 18th February 2022; (c) the applicant applied for change of zone of an area admeasuring 50,401 $m^2$, excluding area marked as No Development Slope as per RP-2021 in the said survey number; (d) the property is accessible by a 8.00 meter wide tar road which is proposed as

10.00 meter wide as per RP-2021; (e) as per RP-2021, the property under reference is partly zoned as Orchard and Partly Orchard with No Development Slope; (f) the area applied for change of zone is earmarked as Orchard zone; (g) the slope of the property is within permissible gradient i.e., below 25%; (h) the said property is not an eco-sensitive land as prescribed under the Impugned Rules; (i) the said property was is not a private forest and/or has lateritic soil and is barren and without much tree cover; and (j) the said property is not low-lying, does not have water bodies and is not in a flood prone area.

31. I say that the application received from the applicant(s) was placed in 201st meeting of the TCP Board held on 11th June 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not under eco sensitive area as defined under the Impugned Rules; and (b) the said property is not identified as a private forest etc.




32. After deliberations, the TCP Board, directed the CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of

zone was notified to public *vide* notification dated 22nd October 2024 (*published in the Official Gazette Series III No. 37 on 24th October 2024*) and in local daily newspapers, inviting suggestions from the public.

33. Pursuant to the aforesaid public notice, the TCP Department received certain suggestions from the public, which were placed before the TCP Board as per Rule 4(3) for its recommendations/approval. The TCP Board has considered all the suggestions received and has arrived at the decision on the basis of merit of each case. The TCP Board after going through the proposal and the suggestions received was of the view that the suggestions received were very general in nature and/or did not reflect the correct factual position and accordingly decided to recommend the proposal of Change of Zone and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules.

34. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

### iv. Sy. No. 31/1-E – Oxel, Bardez Taluka

35. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 40,660 $m^2$ earmarked under Natural Cover and partly under Non-Development Slope, within a large contiguous green belt has been converted to Settlement Zone. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

36. In this regard, I say that Ceu Na Terra Por LLP applied for change of zone under the Impugned Section *vide* application dated 7th November 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 51,140 $m^2$; (b) the property was purchased by the applicant *vide* deed of sale dated 14th December 2021; (c) the applicant applied for change of zone of an area admeasuring 49,202 $m^2$; (d) the property is accessible by 6.00 meter wide tar road which is proposed as 15.00 meter wide as per RP-2021; (e) as per RP-2021, the property under reference is

partly zoned as Natural Cover zone with part area under No Development Slope; (f) a part of the property is also affected by Irrigation Command Area; (g) the area applied for change of zone is not an Eco-sensitive land as defined under the Impugned Rules; (h) slope of part of the property is partly within permissible gradient and partly above; (i) property is not a private forest and/or has lateritic soil and is barren; ; and (j) the property is not low-lying, does not have water-bodies and is not in a flood prone area.

37. Notably, the TCP Department recommended zone change of land admeasuring 40,660 $m^2$ of only the portion of the property which is within permissible gradient and subject to report from Water Resources Department.

38. I further say that the application received from the applicant was placed in 208th meeting of the TCP board held on 2nd December 2024. The TCP Board after going through the details of the application noted that though the property is partly under NDS, as per the contour plan submitted vis-a-vis site inspection, the area of 40,600 $m^2$ is within permissible gradient and therefore, the property under reference is not an eco-sensitive land as defined under the Impugned Rules.

39. After deliberations, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 15th January 2025 (*published in the Official Gazette Series III No. 42 on 16th January 2025*) and in local daily newspapers, inviting suggestions from the public.

40. Pursuant to the said public notice, the TCP Department received certain suggestions from the public.

41. I say that the said file and the suggestions received from the public is yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, unsubstantiated and erroneous.

v. **Sy. No. 173/2 – Loliem, Loliem-Polem, Canacona Taluka**

42. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 11,174 $m^2$, earmarked as Natural Cover, fully under NDS, within a large contiguous green belt on steep, hilly terrain skirting the entire base of a plateau has been converted to Settlement. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

43. In this regard, I say that Isidore Aleixinho Fernandes Pauline Fernandes applied for change of zone under the Impugned Section *vide* application dated 6th August 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 12,725 $m^2$; (b) the property is inherited by deed of family settlement dated 14th May 2010; (c) the applicant applied for change of zone of an area admeasuring 11,571 $m^2$ excluding an area already under settlement zone; (d) the property is accessible by 8.00 meter wide tar road which is proposed as 15.00 meter wide as per RP-2021; (e) as per RP-2021, the property under reference is

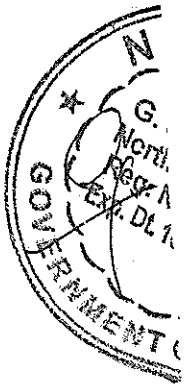
partly zoned as Settlement, partly Orchard and partly Natural Cover with No Development Slope; (f) the area applied for change of zone is not an eco-sensitive land as per the Impugned Rules; (g) though the RP-2021 marked the said property as No Development Slope, it was noted that property is within permissible gradient as per the contour plan submitted and also as per site condition; (h) the said property is neither a private forest nor does it have lateritic soil, and it is without much tree cover; and (i) the property is not low-lying, does not have water-bodies and is not in a flood prone area.

44. I say that the said application was placed in 206th meeting of the TCP board held on 4th September 2024. The TCP Board after deliberation noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules, and (b) the said property is not identified as private forest.

45. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to the public *vide* notification dated 4th

September 2024 (*published in the Official Gazette Series III No. 35 on 28th November 2024*) and in local daily newspapers, inviting suggestions from the public.

46. I say that the suggestions received from public/ NGO's etc. were placed before the TCB Board as per Rule 4(3) for its recommendation/approval/ decision. The TCP Board after going through the proposal and the suggestions received noted that the said application meets the guidelines as specified under Rule 5 of the Impugned Rules and that the suggestions received do not contain any specific data or specific details to substantiate their claim so as to consider them further. The TCP Board accordingly decided to recommend the proposal for change of zone of an area of 11,174 $m^2$ from Partly Natural Cover and Partly Natural Cover with No Development Slope to settlement excluding No Development Slopes and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules.



47. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

vi. **Sv. No. 104/1 (part) – Parcem, Pernem Taluka**

48. With regard to this property, the Petitioner has alleged that an area of 46,700 $m^2$, of a larger property earmarked as Orchard zone in a large Orchard area with contiguous No Development Slope has been changed to Settlement Zone. The Petitioner has also alleged that there is no access road to the said property. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

49. In this regard, I say that Naabhij Project Realty One LLP applied for change of zone under the Impugned Section *vide* application dated 15th May 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 4,12,022 $m^2$; (b) the property was purchased by the applicant *vide* deed of sale dated 13th July 2023; (c) the applicant has applied for change of zone for an area of part of the property admeasuring 46,700 $m^2$; (d) the property is

accessible by 8.00 meter wide tar road; (e) that as per RP-2021, the said property is partly zoned as Orchard and Partly Orchard with No Development Slope and the area applied for change of zone is earmarked as Orchard zone; (f) the slope of the property is within permissible gradient; (g) the said plot is not a low-lying land, does not have water bodies and is not in a flood prone area; and (h) the property is not a private forest and/or has lateritic soil and is barren and without much tree cover.

50. I say that the said application was placed in 201st meeting of the TCP Board held on 11th June 2024. The TCP Board after going through the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

51. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 22nd October 2024 (*published in the Official Gazette Series III No.*

*30 on 24th October 2024*) and in local daily newspapers, inviting suggestions from the public.

52. The suggestions received during the public consultation process were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The TCP Board has considered all the suggestions received and has arrived at the decision on the basis of merit of each case. The TCP Board after going through the proposal and the suggestions received was of the view that the suggestions were very general in nature and/or did not reflect the correct factual position and were without any documents / evidence in support thereof. The TCP Board accordingly decided to recommend the proposal for Change of Zone and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules.

53. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

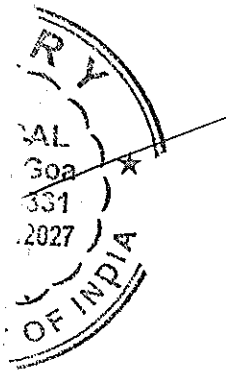
vii. **Sy. No. 104/1 (part) – Parcem, Pernem Taluka**

54. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 51,133 $m^2$ of a larger property earmarked as Orchard in a large Orchard area with contiguous No Development Slope has been changed to Settlement. The Petitioner has also alleged that there is no access road to the said property. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

55. In this regard, I say that Lilah Project Realty One LLP and others applied for change of zone under the Impugned Section *vide* application dated 12th July 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 4,12,022 $m^2$; (b) the said property was purchased by the Applicant *vide* deed of sale dated 1st December 2023; (c) the applicant applied for change of zone of an area of part of the property admeasuring an area of 57,225 $m^2$; (c) contrary to the allegations of the Petitioner, the property is accessible by 8.00 meter wide tar road; (d) as

per RPG- 2021, the said property is partly zoned as Orchard and Partly Orchard with No Development Slope and the area applied for change of zone is earmarked as Orchard zone; (e) the slope of the said property is within the permissible gradient; (f) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (g) the said Property is not a private forest and/or has lateritic soil and is barren and without much tree cover.

56. I further say that the application received from Lilah Project Realty One LLP and others was placed in 204th meeting of the TCP Board held on 29th July 2024. The TCP Board after going through the application noted - (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.



57. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 22nd October 2024 (*published in the Official Gazette Series III No.*

*30 on 24th October 2024*) and in local daily newspapers, inviting suggestions from the public.

58. I say that suggestions received in response to the public notice in respect of the said property were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The TCP Board after going through the proposal and the suggestions received noted that the application and the request made therein meets the guidelines as specified under Rule 5 of the Impugned Rules and that the suggestions received do not contain any specific data or specific details to substantiate their claim so as to consider them further. The TCP Board accordingly decided to recommend the proposal of change of zone for an area of 51,133 $m^2$ from Orchard to Settlement and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules. However, it is pertinent to note that the file has not yet moved for Government approval as required under Rule 4(5).

59. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated

under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

viii. **Sy. No. 13/1 (part) – Parcem, Pernem Taluka**

60. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 38,129 $m^2$ earmarked as Orchard zone in a large Orchard area with contiguous No Development Slope has been changed to Settlement Zone. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

61. In this regard, I say that Hitendra Krishnaji Prabhu Parsekar Desai applied for change of zone under the Impugned Section *vide* application dated 17th September 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 1,16,129 $m^2$; (b) the property was inherited by the Applicant under a deed of succession; (c) the applicant applied for change of zone of an area admeasuring 38129 $m^2$; (d) the property is accessible by 6.00

meter wide tar road which is proposed as 15.00 meter wide as per RP-2021; (e) as per the RP-2021 the area applied for change of zone is earmarked as Orchard zone; (f) the slope of the property is within permissible gradient; (g) the said property is not a low-lying land, having seasonal nalla and is not in a flood prone area; and (h) the property is not a private forest and/or has lateritic soil, is barren and without much tree cover.

62. I say that the said application was placed in 207th meeting of the TCP Board held on 10th October 2024. The TCP Board after going through the application noted that - (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

63. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 19th November 2024 (*published in the Official Gazette Series III No. 34 on 21st November 2024*) and in local daily newspapers, inviting suggestions from the public.

64. I say that the suggestions received from the public pursuant to the public notification, are yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

**ix. <u>Sy. No. 237/0 – Corgao, Pernem Taluka</u>**

65. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 92,175 $m^2$ earmarked as Orchard Zone within a large contiguous green area has been provisionally changed to Settlement Zone. The Petitioner has also alleged that the said property is not accessible by road. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

66. In this regard, I say that Mayberry Estates Private Ltd. applied for change of zone under the Impugned Section *vide* application dated 8th June 2024. The said application was

scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 92,175 $m^2$; (b) the property was purchased by Applicant *vide* deed of sale dated 10th November 2023; (c) the applicant has applied for change of zone of an area admeasuring 92,175 $m^2$; (d) contrary to the allegation of the Petitioner, the said property is accessible by a 6.00 meter wide tar road; (e) as per RP-2021, the property under reference is zoned as Partly Orchard and Partly Natural Cover; (f) the slope of the property is within permissible gradient; (g) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (h) the property is not a private forest and/or has lateritic soil, is barren and without much tree cover.

67. I say that the said application was placed in 201st meeting of the TCP Board held on 11th June 2024. The TCP Board after going through the application noted that (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

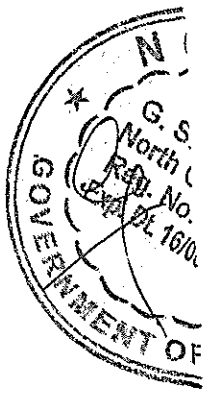
68. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 5th November 2024 (*published in the Official Gazette Series III No. 32 on 7th November 2024*) and in local daily newspapers, inviting suggestions from the public.

69. I say that pursuant to the public notification, the TCP Department received suggestions from certain individuals/NGOs/Organizations, which were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The TCP Board after going through the said proposal and the suggestions received, noted that the application and the request made therein meets the guidelines, as specified under Rule 5 of the Impugned Rules and that the suggestions received does not contain any specific data or specific details to substantiate their claim so as to consider them further. The Board accordingly decided to recommend the proposal of change of zone and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules.

70. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

x. **Sv. No. 238/0 – Corgao, Pernem Taluka**

71. With respect to this property, the Petitioner has alleged that the zone of the area admeasuring 1,68,800 $m^2$ earmarked as Orchard within a large contiguous green area has been changed to Settlement Zone. The Petitioner has also alleged that the property is not accessible by road. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.




72. In this regard, I say that Natwarlal Shamji Gohil applied for change of zone under the Impugned Section *vide* application dated 5th August 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is

1,68,800 $m^2$; (b) the property was purchased by the applicant *vide* deed of sale dated 29th April 2015; (c) the applicant has applied for change of zone of an area admeasuring 1,68,800 $m^2$; (d) that contrary to the allegation made by the Petitioner, the said property is accessible by a 6.00 meter wide tar road; (e) as per RP-2021, the property under reference is partly Orchard and partly Natural Cover; (f) the slope of the property is within the permissible gradient; (g) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (h) the property is not a private forest and/or has lateritic soil, is barren and without much tree cover.

73. I say that the said application was placed in 206th meeting of the TCP Board held on 4th September 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) is not identified as a private forest etc.

74. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of

zone was notified to public *vide* notification dated 13th November 2024 (*published in the Official Gazette Series III No. 33 on 14th November 2024*) and in local daily newspapers, inviting suggestions from the public.

75. I say that pursuant to the public notification, the TCP Department received suggestions from certain individuals/NGOs/Organizations. These suggestions are yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

xi. **Sy. No. 380/1 – Latambercem, Bicholim Taluka**

76. With respect to this property, the Petitioner has alleged that the zone of an area admeasuring 20,750 $m^2$ earmarked as Natural Cover within a large contiguous green area has been changed to Settlement and have further alleged that there is no access road to the said property. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under*

*reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

77. In this regard, I say that Arjun Atma Malik has applied for change of zone under the Impugned Section *vide* application dated 16th August 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 20,750 $m^2$; (b) the property is originally inherited; (c) the applicant has applied for change of zone of an area admeasuring 20,750 $m^2$; (d) the said property is accessible by traditional pathways and also through sub-divisional roads as can be seen in the Google image; (e) as per RPG-2021, the said property is zoned as Natural Cover; (f) the slope of the property is partly within permissible gradient of 25% and partly above 25% as per site condition; (g) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (h) the property is not a private forest and/or has lateritic soil, is barren and with a few jungle trees and bushes.

78. I say that the said application received from Arjun Atma Malik was placed in 208th meeting of the TCP Board held on

2nd December 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

79. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules within the permissible gradient. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 10th December 2024 (*published in the Official Gazette Series III No. 37 on 12th December 2024*) and in local daily newspapers, inviting suggestions from the public.

80. I say that the suggestions received from the public are yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

xii. **Sy. No. 400/1 (Part) – Latambercem, Bicholim Taluka**

81. With respect to this property, the Petitioner has alleged that the zone of the plot admeasuring 11,025 $m^2$ earmarked as Orchard zone which is partly under Irrigation Command Area within a green cultivable zone has been changed to Settlement. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

82. In this regard, I say that Ramchandra Malik applied for change of zone under the Impugned Section *vide* application dated 15th May 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 12,525 $m^2$; (b) the applicant has applied for change of zone of an area admeasuring 12,525 $m^2$; (c) the property is accessible by a 6.00 meter wide tar road; (d) as per RPG-2021, the said property is cultivable with Irrigation Command Area; (e) the slope of the property is partly within permissible gradient and

as per the contour plan submitted, the overall slope of the property is within permissible gradient; (f) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; (g) the property is not a private forest and/or has lateritic soil, is barren and without much tree cover; and (h) the property is in close vicinity to the settlement area and there are many houses towards western side of the property.

83. I say that the said application was placed in 202nd meeting of the TCP Board held on 24th June 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

84. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules for an area of 11,025 $m^2$ which is within permissible gradient. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 12th November 2024 (*published in the Official Gazette Series III*

*No. 33 on 14th November 2024*) and in local daily newspapers, inviting suggestions from the public.

85. I say that pursuant to the public notification, the TCP Department received certain suggestions from the public. I say that the said file and the suggestions received from the public is yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

xiii. **Sy. No. 420/0 – Latambercem, Bicholim Taluka**

86. With respect to this property, the Petitioner has alleged that the zone of the area admeasuring 79,075 $m^2$ earmarked as Orchard and Natural Cover partly under Irrigation Command Area within a large contiguous green area has been changed to Settlement Zone. The Petitioner has also alleged that the said property is not accessible by road. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under*

*reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

87. In this regard, I say that Rajendra Suryakant Malik applied for change of zone under the Impugned Section *vide* application dated 16th August 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 79,075 $m^2$; (b) the property was inherited through Court inventory proceedings; (c) the applicant has applied for change of zone of an area admeasuring 79,075 $m^2$; (d) as per the Plan submitted, property is not directly accessible as per the site condition, but the applicant has submitted that property is accessible by 4.00 mts. wide access; (e) as per RP-2021, the property under reference is Partly Orchard, Partly Natural Cover and Partly Natural Cover with Irrigation Command Area; (f) that part of the property is affected by quarry; (g) the slope of the property is within permissible gradient; (h) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; (i) the property is not a private forest and/or has lateritic soil, is

barren and without much tree cover; and (j) the northern side of the property has residential houses.

88. I further say that the said application was placed in 208th meeting of the TCP Board held on 2nd December 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

89. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules and also directed to the CTP obtain report from Water Resources Department as property is affected by Irrigation Command area. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 17th December 2024 (*published in the Official Gazette Series III No. 38 on 20th November October 024*) and in local daily newspapers, inviting suggestions from the public.

90. I say that pursuant to the public notification, the TCP Department received certain suggestions from the public. I say that the said file and the suggestions received from the

public is yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

**xiv. <u>Sy. No. 81/4 – Oxel, Bardez Taluka</u>**

91. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 4,357 $m^2$ earmarked as Paddy Field in a contiguous paddy area continuing North-East to the banks of the Chapora River has been converted to Settlement zone. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

92. In this regard, I say that Domingo Santan Mendes has applied for change of zone under the Impugned Section *vide* application dated 20th June 2024. The said application was scrutinized by the TCP Department in accordance with the

Impugned Rules which indicated that – (a) the total area of property is 11,700 $m^2$; (b) the property is inherited through inventory proceeding before the Civil Judge, Mapusa; (c) the applicant has applied for change of zone of an area admeasuring 11,633 $m^2$; (d) the property is accessible by a 6.00 meter wide tar road; (e) as per RP-2021, the property under reference is zoned as Paddy field with Irrigation Command Area; (f) the slope of the property is within permissible gradient; (g) the said property is a low-lying land but not under cultivation, does not have water bodies and is not in a flood prone area; and (h) the said property is not a private forest.

93. I say that the said application was placed before the TCP Board during its 204th meeting held on 29th July 2024. The TCP Board after going through the application noted that – (a) the property under reference is not classified as rice as per Form I & XIV, and hence it is not a paddy field and therefore not an Eco-1 area; and (b) and is not identified as a private forest etc.

94. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the

Impugned Rules in view of the land not classified as rice as per Revenue record. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 19th November 2024 (*published in the Official Gazette Series III No. 34 on 21st November 2024*) and in local daily newspapers, inviting suggestions from the public.

95. I say that pursuant to the public notification, the TCP Department received suggestions from certain individuals/NGOs/Organizations. These suggestions are yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

xv. **<u>Sy. No. 199/2 – Parra, Bardez Taluka</u>**

96. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 2175 $m^2$ earmarked as Paddy Fields connected within a larger, contiguous paddy area has been converted to Settlement. I deny any insinuation that the provisional recommendation of the TCP Board (*for*

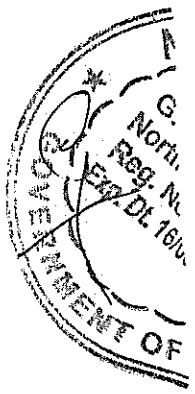
*notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

97. In this regard, I say that VRSM Enterprises LLP applied for change of zone under the Impugned Section *vide* application dated 9th May 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 2,175 $m^2$; (b) the property was purchased by VRSM Enterprises LLP *vide* deed of sale dated 29th April 2022; (c) the applicant applied for change of zone of an area admeasuring 2,175 $m^2$; (d) the property is land locked, however, the applicant has submitted site plan showing a 6 meter wide road; (e) as per the Outline Development Plan of Parra, the property under reference is partly zoned as Agriculture A1 with Irrigation Command Area; (f) the slope of the property is within permissible gradient; (g) the said property is a low-lying land but not under paddy cultivation; (h) the said plot has settlement zone touching its three side; (i) the property does not have water bodies and is not in a flood prone area; and (j)

the said property is not a private forest and is partially covered with trees as seen from Google images.

98. I say that the said application was placed before the TCP Board during its 207th meeting held on 10th October 2024. The TCP Board after going through the details of the application noted that – (a) the property is not under rice as per revenue records and hence is not an Eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

99. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 26th November 2024 (*published in the Official Gazette Series III No. 35 on 28th November 2024*) and in local daily newspapers, inviting suggestions from the public.

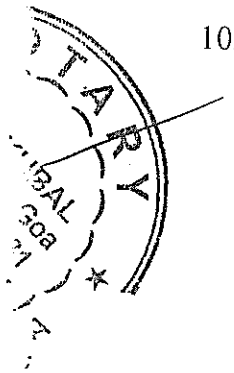


100. I say that pursuant to the public notification, the TCP Department received certain suggestions from the public. I say that the said file and the suggestions received from the public is yet to be placed before the TCP Board for its

consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

**xvi. <u>Sy. No. 8/7 – Arpora, Bardez Taluka</u>**

101. With respect to this property, the Petitioner has alleged that the zone of the said land admeasuring 8750 $m^2$ earmarked as paddy fields in a contiguous paddy field area has been changed to Settlement. I deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.



102. In this regard, I say that Kevin Francis D'Souza applied for change of zone under the Impugned Section *vide* application dated 2nd April 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 8,975 $m^2$; (b) the property was purchased by applicant *vide* deed of

sale dated 27th April 2017; (c) the applicant has applied for a change of zone for an area admeasuring 8,975 $m^2$; (d) as per the Outline Development Plan for Arpora-Nagao, the property under reference is partly zoned as Agriculture A1 with Irrigation Command area; (e) as per form I and IVX of revenue record, property under reference is not rice / paddy field land; (f) as per google images, the property is surrounded by development all around; (g) the slope of the property is within permissible gradient; (h) the property is a low lying land; however, many developments can be seen at the same level; (i) the change of zone is recommended leaving area under water body; (j) the said property is not a private forest and is not in a flood prone area; (k) the said plot is non-cultivated and is without much tree cover.

103. I say that the said application was placed in 203rd meeting of the TCP Board held on 10th July 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules since the said land is neither classified as "rice" in the revenue records nor is under cultivation; and (b) is not identified as a private forest etc.

104. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public *vide* notification dated 28th October 2024 (*published in the Official Gazette Series III No. 31 on 1st November 2024*) and in local daily newspapers, inviting suggestions from the public.

105. I say that pursuant to the public notification, the TCP Department received certain suggestions from certain individuals/NGOs/Organizations, which were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/ decision. The TCP Board after going through the proposal and the suggestions received noted that the application and the request made therein meets the guidelines, as specified under Rule 5 of the Impugned Rules and that the suggestions received does not contain any specific data or specific details to substantiate their claim so as to consider them further. The TCP Board accordingly decided to recommend the proposal for Change of Zone of an area admeasuring 8750 $m^2$ from Paddy field with Irrigation command area to Settlement excluding area under pond and

110. After deliberation, the TCP Board directed CTP to notify the area within the permissible gradient, but subject to report from the forest department to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to public for an area of 5027 $m^2$ (*which was found to be within permissible gradient, and which is subject to report from Forest Department*) *vide* notification dated 26th November 2024 (*published in the Official Gazette Series III No. 35 on 28th November 2024*) and in local daily newspapers, inviting suggestions from the public.

111. I say that pursuant to the public notification, the TCP Department received certain suggestions from the public. These were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The TCP Board has considered all the suggestions received and has arrived at the decision on the basis of merit of each case. The TCP Board after going through the proposal and the suggestions received was of the view that the suggestions were very general in nature without any factual basis, and/or did not reflect the correct factual position and were without any documents /

evidence in support thereof. The TCP Board accordingly decided to recommend the proposal of change of zone and directed the CTP to take further action as per Rule 4(4) of the Impugned Rules.

112. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

**xviii.<u>Sy. No. 245/1 (Part C) – Siolim, Bardez Taluka</u>**

113. With respect to this property, the Petitioner has alleged that out of total area of the property admeasuring 83,900 $m^2$ under Private Forest and Natural Cover partly under No Development Slope, an area admeasuring 12,700 $m^2$ has been separately changed to Settlement. The Petitioner has also alleged that the property falls within a large, contiguous belt of natural cover, orchard and No Development Slope. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the

Impugned Section and/or the Impugned Rules and/or any other applicable law.

114. In this regard, I say that Jaijeet Singh Tehlan has applied for change of zone under the Impugned Section *vide* application dated 15th May 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 83900 $m^2$; (b) the property was purchased by the applicant *vide* deed of sale dated 18th February 2022; (c) the applicant has applied for change of zone of an area admeasuring 15000 $m^2$ excluding area marked as No Development Slope in the said property; (d) the property is accessible by a 8.00 meter wide tar road which is proposed as 10.00 meter wide as per RP-2021; (e) as per RP-2021, the property under reference is partly zoned as Orchard and Partly Orchard with No Development Slope; (f) the area applied for change of zone is earmarked as Orchard zone; (g) the slope of the property is partly within permissible gradient; (h) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (i) the property is not a private forest

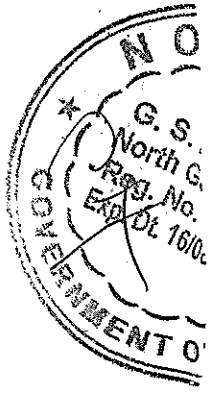
and/or has lateritic soil, is barren and without much tree cover.

115. I say that the application received was placed before the TCP Board for its consideration at its 206th meeting held on 4th September 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) is not identified as a private forest etc.

116. After deliberation, the TCP Board directed CTP to notify to the public, in accordance with Rule 4(2) of the Impugned Rules, the said proposal for change of zone of only a part of the said property *i.e.,* to the extent the same was within the permissible gradient and subject to report from Forest Department. Accordingly, the proposal for change of zone (*to the extent of an area admeasuring 7400 m² which is found within permissible gradient, as opposed to the allegations of the Petitioner in this regard*) was notified to public *vide* notification dated 21st January 2025 (*published in the Official Gazette Series III No. 43 on 23rd January 2025 and*

*corrigendum dated 19th February 2025*) and in local daily newspapers, inviting suggestions from the public.

117. I say that pursuant to the public notification, the TCP Department received suggestions from certain individuals/NGOs/Organizations. I say that the suggestions received from public/ NGO's etc. were placed before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The TCP Board has considered all the suggestions received and has arrived at the decision on the basis of merits of each case. The TCP Board after going through the proposal and the suggestions received was of the view that the suggestions were very general in nature without any factual basis, and/or did not reflect the correct factual position and were without any documents / evidence in support thereof. The TCP Board accordingly decided to recommend the proposal of Change of Zone and directed CTP to take further action as per Rule 4(4) of the Impugned Rules.




118. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated

under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

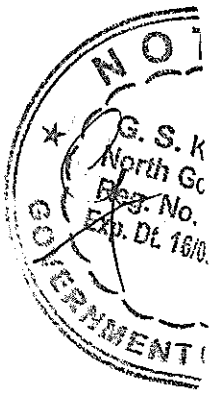
**xix. <u>Sy. No. 245/1(Part) – Siolim, Bardez Taluka</u>**

119. With respect to this property, the Petitioner has alleged that out of total area of the property admeasuring 83,900 $m^2$ under Private Forest and Natural Cover partly under No Development Slope, an area admeasuring 10,741 $m^2$ has been separately changed to Settlement. The Petitioner has also alleged that the property falls within a large, contiguous belt of natural cover, orchard and No Development Slope. I deny any insinuation that the provisional recommendation of the TCP Board (*for notifying the proposed change of zone of the property under reference to the public*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

120. In this regard, I say that Jaijeet Singh Tehlan has applied for change of zone under the Impugned Section *vide* application dated 30th August 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is

83,900 $m^2$; (b) the property was purchased by the applicant vide sale deed dated 1st May 2024; (c) the applicant has applied for change of zone of an area admeasuring 15,000 $m^2$; (d) the said property is landlocked; (e) as per RP-2021, the portion of property requested for change of zone is partly Natural Cover and Partly Orchard; (e) the slope of the property is partly within permissible gradient and partly above permissible gradient however, as per RP-2021, it is within permissible gradient; (f) the said property is not a low-lying land, does not have water bodies and is not in a flood prone area; and (g) the part of property for which change of zone has been requested is not a private forest area.

121. I say that the said application was placed in 206th meeting of the TCP Board held on 04th September 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) the said property is also not identified as private forest as per RP-2021.




122. After deliberation, the TCP Board directed CTP to notify to the public, in accordance with Rule 4(2) of the Impugned

Rules, the said proposal for change of zone of only a part of the said property *i.e.,* to the extent the same was within the permissible gradient and subject to report from Forest Department. Accordingly, the proposal for change of zone (*to the extent of an area admeasuring 12,741 m² which is found within permissible gradient*) was notified to the public *vide* notification dated 31st December 2024 (*published in the Official Gazette Series III No. 40 on 2nd January 2025*) and in local daily newspapers, inviting suggestions from the public.

123. I say that the said file is yet to be placed before the TCP Board for its consideration under Rule 4(3) for its recommendation/approval/decision. Therefore, the allegation of the Petitioner that the zone of the said property has already been provisionally converted to Settlement is pre-mature, incorrect and erroneous.

xx. **Sy. No. 59/3-A – Candolim, Bardez Taluka**

124. With respect to this property, the Petitioner has alleged that the zone of the land admeasuring 1500 m² earmarked as Khazan land has been converted to Commercial C-1 zone. I

deny any insinuation that the recommendation of the TCP Board (*for change of zone of the property under reference*) is contrary to the Impugned Section and/or the Impugned Rules and/or any other applicable law.

125. In this regard, I say that M/s. Nicetel Electronics applied for change of zone under the Impugned Section *vide* application dated 23rd July 2024. The said application was scrutinized by the TCP Department in accordance with the Impugned Rules which indicated that – (a) the total area of property is 2500 $m^2$; (b) the property was purchased by the Applicant *vide* 4 deeds of sale dated 27th June 2024, 24th June 2024, 20th June 2024 and 24th June 2024; (c) the applicant has applied for change of zone of an area admeasuring 2500 $m^2$ marked as residential zone in the said survey number; (d) the property is accessible by a 6.00 meter wide kar road; (e) as per the Outline Development Plan of Calangute-Candolim area, the property under reference is partly zoned as residential and partly within 100 meters of river CRZ; (f) the applicant has sought change of zone to commercial zone; (g) the slope of the property is within the permissible gradient; (h) the property is not a low-lying land, does not have water bodies, and is not

in a flood prone area; (i) the said property is not a private forest; and (j) the department has already approved a residential project in the area which for which a request has been made for change of zone to commercial purpose under the Impugned Section.

126. I say that the said application was placed before the TCP Board at its 204th meeting held on 29th July 2024. The TCP Board after going through the details of the application noted that – (a) the property under reference is not an eco-sensitive land as defined under the Impugned Rules; and (b) and is not identified as a private forest etc.

127. After deliberation, the TCP Board directed CTP to notify the same to the public in accordance with Rule 4(2) of the Impugned Rules. Accordingly, the proposal for change of zone was notified to the public *vide* notification dated 28th October 2024 (*published in the Official Gazette Series III No. 31 on 1st November 2024*) and in local daily newspapers, inviting suggestions from the public.

128. I say that pursuant to the public notification, the suggestions received by the TCP Department from the public were placed

before the TCP Board as per Rule 4(3) for its recommendation/approval/decision. The Board has considered all suggestions received and has arrived at the decision on the basis of merits of each case. The TCP Board after going through the proposal and the suggestions received was of the view that the suggestions were very general in nature without any factual basis, and/or did not reflect the correct factual position and were without any documents / evidence in support thereof. The TCP Board accordingly decided to recommend the proposal for change of zone and directed Chief town Planner (Planning) to take further action as per Rule 4(4) of the Impugned Rules.

129. Pertinently, the recommendation of the TCP Board is yet to be placed before the Government for its decision as stipulated under Rule 4(5) of the Impugned Rules and as such no final decision with respect to the said property has been taken.

130. The aforesaid clearly demonstrates that there the plots referred to by the Petitioner which have been considered under the Impugned Section and have been provisionally recommended for change of zone are in compliance with the terms of the Impugned Section and Impugned Rules, and do

not alter character of the Regional Plan and/or the Outline Development Plan.

131. I shall now deal with the contents of the Additional Affidavit Paragraph-wise:

132. With reference to paragraph 1 of the Additional Affidavit, I deny that the Petitioner is entitled to any interim relief as sought for in the captioned Petition. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

133. With reference to paragraph 2 of the Additional Affidavit, I deny the contents of Annexure A in *toto* and state that the same has been dealt with separately hereinabove. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

134. With reference to paragraph 3 of the Additional Affidavit, I say that the contents thereof are a matter of record and do not merit a response. I repeat and reiterate all that has been stated

herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

135. With reference to paragraph 4 of the Additional Affidavit, I deny that the Government has granted any approval under the Impugned Section. I deny that the information provided in the notifications is meagre, as alleged. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

136. With reference to paragraphs 5 and 6 of the Additional Affidavit, I say that the contents thereof pertain to the Impugned Rules. I crave leave to refer to and rely on the Impugned Rules for its true meaning and purport. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

137. With reference to paragraph 7 of the Additional Affidavit, I deny that the zone changes envisaged under the Impugned Section will alter the overall character of RP-21 and/or make the altered/modified RP-21 unrecognisable from the original

RP-21, as alleged or at all. In this regard, *firstly*, I say that the Petitioner has chosen to ignore an important safeguard contemplated under Section 39A itself that the alteration or modification carried out under this provision shall not alter the overall character of the existing Regional Plan and/or Outline Development Plan. *Secondly*, I say that it is an established position of law that an apprehension of misuse of a statutory provision is not a ground to test its constitutional validity. It must be presumed that administration and application of a particular provision would be done not with an evil eye and unequal hand. Merely because power may sometime be abused, it is no ground for denying the existence of power. In any event, I say that there are safeguards under the impugned provision itself allay any apprehension that the authorities may act wantonly or capriciously in carrying out alterations or modifications under this provision. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

138. With reference to paragraph 8 of the Additional Affidavit, I say that the contents thereof are a matter of record and do not

merit a response. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

139. With reference to paragraph 9 of the Additional Affidavit, I deny that the prescribed eco-sensitive areas are allowed for development, as alleged or at all. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

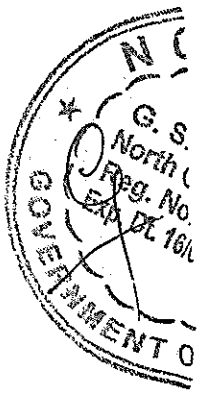
140. With reference to paragraph 10 of the Additional Affidavit, I deny that the changes involve large swathes of Ecozones I and II and/or that the same violate Section 39A itself, as alleged or at all. I deny that these changes amount to changing the basic structure of the Regional Plan/ODP. I say that the submission of the Petitioner that this may not be done without a revision of the RP 2021 is totally misconceived. In this regard, I say that a revision of the entire RP would involve major changes, including changes in the policies underlying the RP and other broad-based features of the RP. The RP applies to the entire State of Goa and covers an area of approximately 370.20 crore $m^2$. Revision of the RP entails an

extensive exercise, involving major changes and great costs. In contrast, the Impugned Section merely introduces a provision for change of zone which is a commonplace and can be found in other town planning statutes as well. Pertinently, the Impugned Section has become a part of the statute and would be applicable not only to RP-2021 but also to any future RP also. Further, the file notings of the law department referred to in the paragraph under reference are not germane to the issues at hand, and such allegations ought to be disregarded by this Hon'ble Court. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

141. With reference to paragraph 11(a) of the Additional Affidavit, I say that the contents thereof are a matter of record and the do not merit a response. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

142. With reference to paragraph 11(b) of the Additional Affidavit, I say that the allegation of the Petitioner that

applications for change of zone will continue as more and more people find it opportunistic to avail of the easy access to zone change provided under the Impugned Section is based on surmises and conjectures, is of no purport, and as such ought to be disregarded. I reiterate the settled position of law in this regard that if a statutory provision is otherwise *intra vires*, constitutional and valid, mere possibility of abuse of power in a given case would not make it objectionable, ultra vires or unconstitutional. In such cases, "action" and not the "section" may be vulnerable. I therefore say that if what is done as on date is valid, then the same cannot be invalidated because there is a possibility of future misuse. Therefore, if this Hon'ble Court is satisfied that if as on date there is no change in fundamental feature of the RP, mere possibility or apprehension that this will continue to happen in future cannot invalidate a legal and valid act. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.



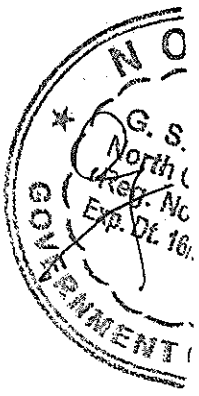

143. With reference to paragraph 11(c) of the Additional Affidavit, I say that the contents thereof are an analysis of the

Petitioner of the proposed zone changes under Section 39A of the Act and do not merit a response. In any event, this Respondent cannot verify the veracity of the statistics set out in the paragraph under reference given that neither the basis on which the same has been estimated is within the knowledge of this Respondent nor such details have been provided by the Petitioner. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

144. With reference to paragraphs 11(d) and (e) of the Additional Affidavit, I deny the contents thereof in *toto*. I say that the Impugned Section clearly provides that "*the Chief Town Planner (Planning) upon direction of the Government* ***or on receipt of an application in this regard***". Merely because applications from private parties are being considered under the Impugned Section, the same does not *ipso facto* make the ~~actions~~ of the Respondent contrary to the principal objective for introduction of the Impugned Section. Such applications are in any event is within the scope and ambit of the Impugned Section. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny

all that is inconsistent therewith and/or contrary thereto. I further crave leave for refer to and rely on the Impugned Section and on Section 16A for their true meaning and purport.

145. With reference to paragraph 11(f) of the Additional Affidavit, I deny the allegation of the Petitioner that there is no road connectivity to many of the plots analysed in *Annexure A* of the Additional Affidavit. I say that the allegation of the Petitioner that such a zone change only implies that the plot owner will purchase additional eco-sensitive lands to construct roads which will be approved on the grounds that a zone change has already been effected is a mere speculation and is completely based on surmises and conjectures. I deny that such approvals cannot be considered as a rational or reasonable planning exercise to factor in housing, commercial and infrastructure requirements of the state. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.



146. With reference to paragraph 11(g) of the Additional Affidavit, I deny the contents thereof in *toto* and state that the

same are not germane to the issues at hand. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

147. With reference to paragraph 11(h) of the Additional Affidavit, I deny that the prescribed procedure for processing applications under the Impugned Section is not being adhered to. I say that wherever comments / reports from other departments are required to be obtained and are awaited, the change of zone applications have been notified to the public, however such applications are subject to such comments/reports, and will be dealt with accordingly. I deny that TCP officers are acting in violation of the Rules, as alleged or at all. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

148. With reference to paragraph 12 of the Additional Affidavit, I deny that the Impugned Section was introduced to replace Section 16B, as alleged or at all. I deny the insinuation/allegation of the Petitioner that the modifications/alterations made under Impugned Section are

not done in public interest. In this regard, I say that the ultimate decision under Section 39A is taken by the government which in itself is an additional safeguard as the government is always presumed to act in public interest. I deny that there is any defect in Section 39A as alleged or at all, and/or is contrary to all norms of planning, as well as decisions of the Hon'ble Supreme Court and High Courts in such matters. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

149. With reference to paragraph 13 of the Additional Affidavit, I deny the contents thereof in *toto*. I deny the Petitioner is entitled to any interim reliefs sought therein. I say that all the modifications/alterations are proposed to be carried out in terms of Section 39A and the Rules framed thereunder. I deny that zone changes effected under the Impugned Section shall structurally alter RP-2021 and/or destroy its character and/or make it entirely unrecognisable and/or that the State will be bereft of large swathes of Orchard lands, Natural Cover, No Development Slopes, paddy fields, etc, as alleged or at all. I deny that once such re-zoning of ecozones is allowed to be

finalized, it will become a rule in itself, leading to large scale undermining of the character of RP-21 in all other ecozones, as alleged or at all. I say that these allegations are bald, baseless and unsubstantiated and based on surmises and as such deserve to be disregarded. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

150. With reference to paragraph 14 of the Additional Affidavit, I say that merely because the Petitioners would be required to implead further respondents in the captioned Petition and/or more parties will be required to be heard, cannot and ought not to be a ground to grant interim reliefs to the Petitioners. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

151. With reference to paragraph 15 of the Additional Affidavit, I say that the contents thereof are procedural in nature and do not merit a response. I repeat and reiterate all that has been stated herein and in the Limited Reply in this regard and deny all that is inconsistent therewith and/or contrary thereto.

152. In view of the foregoing, I submit that the Petitioner is not entitled to any reliefs as more particularly sought in the captioned Petition and/or the Additional Affidavit, and the captioned Petition deserves to be dismissed *in limine*.

Solemnly affirmed at Goa )

Dated 12th day of March 2025 )

**DEPONENT**

Identified by:

**Solemnly affirmed beforeme by**

**.....Rajesh Naik.....**

**..........**

**Reg. No:..27/2226..Date:..12.3.2025**

**known / Identified to me by.**

G. S. KUBAL

Notary (Govt. of India)

Panaji-Goa, India

NOTARY
G. S. KUBAL
North Goa, Goa
Reg. No. 13331
Exp. Dt. 16/08/2027
GOVERNMENT OF INDIA

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